

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

ITHACA VENTURES k.s. and ITHACA
DEVELOPMENT, LLC,

Plaintiffs,

V.

NINTENDO OF AMERICA INC. and NINTENDO
CO., LTD.,

Defendants.

C.A. No. 13-824-GMS

JURY TRIAL DEMANDED

**DECLARATION OF RICHARD L. HORWITZ IN SUPPORT OF NINTENDO'S
MOTION FOR SANCTIONS PURSUANT TO FED. R. CIV. P. 11**

I, Richard L. Horwitz, hereby declare as follows:

1. I am a partner at the law firm of Potter Anderson Corroon LLP, Hercules Plaza, 1313 North Market Street, 6th Floor, Wilmington, DE 19801. I am counsel for Nintendo of America Inc. and Nintendo Co., Ltd. (collectively “Nintendo”) in this matter.

2. I make this declaration in support of Nintendo's Motion for Sanctions Pursuant to Fed. R. Civ. P. 11.

3. Attached as Exhibit 1 is a true and correct copy of the patent-in-suit, U.S. Patent No. 6,624,802.

4. Attached as Exhibit 2 is a true and correct service copy of Nintendo's Motion for Sanctions Pursuant to Fed. R. Civ. P. 11 and Memorandum in Support Thereof that was served on Plaintiffs on August 29, 2013.

5. Attached as Exhibit 3 is a true and correct copy of a letter from J. Riedinger to R. Sunshine, dated July 12, 2013.

6. Attached as Exhibit 4 is a true and correct copy of a letter from J. Riedinger to T. Ward, dated August 6, 2013.

7. Attached as Exhibit 5 is a true and correct copy of an article by Randall R. Rader, Colleen V. Chien, and David Hricik, Op-Ed, *Make Patent Trolls Pay in Court*, N.Y. TIMES, June 4, 2013

8. Attached as Exhibit 6 is a true and correct copy of a letter from T. Ward to J. Riedinger, dated August 1, 2013

9. Attached as Exhibit 7 is a true and correct copy of pages excerpted from *Random House Webster's Unabridged Dictionary* (2d ed. 1998) defining "tilt."

10. Attached as Exhibit 8 is a true and correct copy of pages excerpted from *The American Heritage College Dictionary* (3d ed. 2000) defining "tilt."

11. Attached as Exhibit 9 is a true and correct copy of U.S. Patent No. 5,613,690 to McShane.

12. Attached as Exhibit 10 is a true and correct copy of the Certified Translation of the Declaration of Hitoshi Yamazaki in Support of Nintendo's Motion for Sanctions Pursuant to Fed. R. Civ. P. 11. The witness signed the attached Japanese version of the document. The verification and certification of translation is also attached.

13. Attached as Exhibit 11 is a true and correct copy of the Response Under 37 C.F.R. 1.116 dated May 21, 2001 and included in the prosecution history of the patent-in-suit.

14. Attached as Exhibit 12 is a true and correct copy of the Appeal Brief filed during prosecution of the patent-in-suit.

15. Attached as Exhibit 13 is a true and correct copy of U.S. Patent No. 5,283,555 to Ward.

16. Attached as Exhibit 14 is a true and correct copy of the Amendment Under C.F.R. 1.111 dated January 16, 2001 and included in the prosecution history of the patent-in-suit.

17. Attached as Exhibit 15 is a true and correct copy of U.S. Patent No. of U.S. Patent No. 5,860,861 to Lipps et al.

18. Attached as Exhibit 16 is a true and correct copy of the Appeal Reply Brief filed during prosecution of the patent-in-suit.

19. Attached as Exhibit 17 is a true and correct copy of Nanotechnology SNF website pages located at <http://snf.stanford.edu/Education/Nanotechnology.SNF.web.pdf>.

20. Attached as Exhibit 18 is a true and correct copy of Franklin Mint Silver website pages located at <http://www.franklin-mint-silver.com/franklin-mint--silver-gold-and-silver-weights.htm>.

I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct to the best of my knowledge.

Executed this 29th day of August, 2013.

/s/ Richard L. Horwitz

Richard L. Horwitz

Original Service Date: August 29, 2013
Filed & Served Date: September 20, 2013

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CERTIFICATE OF SERVICE

I, Richard L. Horwitz, hereby certify that on September 20, 2013, the attached document was electronically filed with the Clerk of the Court using CM/ECF which will send notification to the registered attorney(s) of record that the document has been filed and is available for viewing and downloading.

I hereby certify that on September 20, 2013, the attached document was electronically mailed to the following person(s)

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